

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1149

By: Osburn

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6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2011, Section 565, as last amended by Section 2,
Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020, Section
9 565), which relates to Oklahoma Motor Vehicle
Commission licensing; requiring certain employees to
10 have certificates of registration; amending 47 O.S.
2011, Section 583, as last amended by Section 24,
11 Chapter 161, O.S.L. 2020 (47 O.S. Supp. 2020, Section
583), which relates to used motor vehicle licensing;
12 providing for registered persons to engage in certain
activities; providing for temporary approval;
13 amending Section 8, Chapter 79, O.S.L. 2019 (47 O.S.
Supp. 2020, Section 583.1), which relates to
14 certificates of registration; allowing certain new
vehicle salespeople to sell used vehicles; providing
15 for registration fees and renewal; amending 47 O.S.
2011, Section 584, as last amended by Section 6,
16 Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020, Section
584), which relates to Oklahoma Used Motor Vehicle
and Parts Commission licensing; allowing for the
17 denial of application and imposition of fines for
certain salespeople; and providing an effective date.
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21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 47 O.S. 2011, Section 565, as last
23 amended by Section 2, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020,
24 Section 565), is amended to read as follows:

1 Section 565. A. The Oklahoma Motor Vehicle Commission may deny
2 an application for a license, or revoke or suspend a license or
3 impose a fine not to exceed Ten Thousand Dollars (\$10,000.00)
4 against a manufacturer or distributor or a fine not to exceed One
5 Thousand Dollars (\$1,000.00) against a dealer per occurrence that
6 any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1
7 of this title is violated or for any of the following reasons:

8 1. On satisfactory proof of unfitness of the applicant in any
9 application for any license under the provisions of Section 561 et
10 seq. of this title;

11 2. For any material misstatement made by an applicant in any
12 application for any license under the provisions of Section 561 et
13 seq. of this title;

14 3. For any failure to comply with any provision of Section 561
15 et seq. of this title or any rule promulgated by the Commission
16 under authority vested in it by Section 561 et seq. of this title;

17 4. A change of condition after license is granted resulting in
18 failure to maintain the qualifications for license;

19 5. Being a new motor vehicle dealer who:

20 a. has required a purchaser of a new motor vehicle, as a
21 condition of sale and delivery thereof, to also
22 purchase special features, appliances, accessories or
23 equipment not desired or requested by the purchaser
24 and installed by the dealer,

- 1 b. uses any false or misleading advertising in connection
2 with business as a new motor vehicle dealer,
3 c. has committed any unlawful act which resulted in the
4 revocation of any similar license in another state,
5 d. has failed or refused to perform any written agreement
6 with any retail buyer involving the sale of a motor
7 vehicle,
8 e. has been convicted of a crime involving moral
9 turpitude,
10 f. has committed a fraudulent act in selling, purchasing
11 or otherwise dealing in new motor vehicles or has
12 misrepresented the terms and conditions of a sale,
13 purchase or contract for sale or purchase of a new
14 motor vehicle or any interest therein including an
15 option to purchase such vehicle,
16 g. has failed to meet or maintain the conditions and
17 requirements necessary to qualify for the issuance of
18 a license, or
19 h. completes any sale or transaction of an extended
20 service contract, extended maintenance plan, or
21 similar product using contract forms that do not
22 conspicuously disclose the identity of the service
23 contract provider;
24

1 6. Being a new motor vehicle salesperson who is not employed as
2 such by a licensed new motor vehicle dealer;

3 7. Being a new motor vehicle dealer who:

4 a. does not have an established place of business,

5 b. does not provide for a suitable repair shop separate
6 from the display room with ample space to repair or
7 recondition one or more vehicles at the same time, and
8 which is equipped with such parts, tools and equipment
9 as may be requisite for the servicing of motor
10 vehicles in such a manner as to make them comply with
11 the safety laws of this state and to properly fulfill
12 the dealer's or manufacturer's warranty obligation,

13 c. does not hold a franchise in effect with a
14 manufacturer or distributor of new or unused motor
15 vehicles for the sale of the same and is not
16 authorized by the manufacturer or distributor to
17 render predelivery preparation of such vehicles sold
18 to purchasers and to perform any authorized post-sale
19 work pursuant to the manufacturer's or distributor's
20 warranty,

21 d. employs a person without obtaining a certificate of
22 registration for the person, or utilizes the services
23 of used motor vehicle lots or dealers or other
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1 unlicensed persons in connection with the sale of new
2 motor vehicles,

3 e. does not properly service a new motor vehicle before
4 delivery of same to the original purchaser thereof, or

5 f. fails to order and stock a reasonable number of new
6 motor vehicles necessary to meet customer demand for
7 each of the new motor vehicles included in the new
8 motor vehicle dealer's franchise agreement, unless the
9 new motor vehicles are not readily available from the
10 manufacturer or distributor due to limited production;

11 8. Being a factory that has:

12 a. either induced or attempted to induce by means of
13 coercion or intimidation, any new motor vehicle
14 dealer:

15 (1) to accept delivery of any motor vehicle or
16 vehicles, parts or accessories therefor, or any
17 other commodities including advertising material
18 which shall not have been ordered by the new
19 motor vehicle dealer,

20 (2) to order or accept delivery of any motor vehicle
21 with special features, appliances, accessories or
22 equipment not included in the list price of the
23 motor vehicles as publicly advertised by the
24 manufacturer thereof, or

1 (3) to order or accept delivery of any parts,
2 accessories, equipment, machinery, tools,
3 appliances or any commodity whatsoever, or

4 b. induced under threat or discrimination by the
5 withholding from delivery to a motor vehicle dealer
6 certain models of motor vehicles, changing or amending
7 unilaterally the dealer's allotment of motor vehicles
8 and/or withholding and delaying delivery of such
9 vehicles out of the ordinary course of business, in
10 order to induce by such coercion any such dealer to
11 participate or contribute to any local or national
12 advertising fund controlled directly or indirectly by
13 the factory or for any other purposes such as contest,
14 "give-aways" or other so-called sales promotional
15 devices and/or change of quotas in any sales contest;
16 or has required motor vehicle dealers, as a condition
17 to receiving their vehicle allotment, to order a
18 certain percentage of the vehicles with optional
19 equipment not specified by the new motor vehicle
20 dealer; however, nothing in this section shall
21 prohibit a factory from supporting an advertising
22 association which is open to all dealers on the same
23 basis;

24 9. Being a factory that:

- 1 a. has attempted to coerce or has coerced any new motor
2 vehicle dealer to enter into any agreement or to
3 cancel any agreement, or fails to act in good faith
4 and in a fair, equitable and nondiscriminatory manner;
5 or has directly or indirectly coerced, intimidated,
6 threatened or restrained any motor vehicle dealer; or
7 has acted dishonestly, or has failed to act in
8 accordance with the reasonable standards of fair
9 dealing,
- 10 b. has failed to compensate its dealers for the work and
11 services they are required to perform in connection
12 with the dealer's delivery and preparation obligations
13 according to the agreements on file with the
14 Commission which must be found by the Commission to be
15 reasonable, or fail to adequately and fairly
16 compensate its dealers for labor, parts and other
17 expenses incurred by such dealer to perform under and
18 comply with manufacturer's warranty agreements.
19 Adequate and fair compensation for parts shall be
20 established by the dealer submitting to the
21 manufacturer or distributor one hundred sequential
22 nonwarranty customer-paid service repair orders which
23 contain warranty-like parts, or ninety (90)
24 consecutive days of nonwarranty customer-paid service

1 repair orders which contain warranty-like parts,
2 whichever is less, covering repairs made no more than
3 one hundred eighty (180) days before the submission
4 and declaring the average percentage markup. Adequate
5 and fair compensation for labor shall be established
6 by the dealer submitting to the manufacturer or
7 distributor one hundred sequential customer-paid
8 service repair orders which contain labor charges, or
9 ninety (90) consecutive days of customer-paid service
10 repair orders which contain labor charges, whichever
11 is less. When submitting repair orders to calculate a
12 labor rate, a dealer need not include repair orders
13 for routine maintenance. A manufacturer or
14 distributor may, not later than thirty (30) days after
15 submission, rebut that declared rate in writing by
16 reasonably substantiating that the rate is inaccurate
17 or unreasonable in light of the practices of all other
18 franchised motor vehicle dealers in an economically
19 similar part of the state offering the same line-make
20 vehicles. The retail rate shall go into effect thirty
21 (30) days following the approval by the manufacturer,
22 subject to audit of the submitted repair orders by the
23 franchisor and a rebuttal of the declared rate as
24 described above. If the declared rate is rebutted,

1 the manufacturer or distributor shall propose an
2 adjustment in writing of the average percentage markup
3 based on that rebuttal not later than thirty (30) days
4 after submission. If the dealer does not agree with
5 the proposed average percentage markup, the dealer may
6 file a protest with the Commission not later than
7 thirty (30) days after receipt of that proposal by the
8 manufacturer or distributor. In the event a protest
9 is filed, the manufacturer or distributor shall have
10 the burden of proof to establish the new motor vehicle
11 dealer's submitted rate was inaccurate or unreasonable
12 in light of the practices of all other franchised
13 motor vehicle dealers in an economically similar part
14 of the state. A manufacturer or distributor may not
15 retaliate against any new motor vehicle dealer seeking
16 to exercise its rights under this provision. A
17 manufacturer or distributor may require a dealer to
18 submit repair orders in accordance with this section
19 in order to validate a dealer's retail rate for parts
20 or labor not more often than once every twelve (12)
21 months. All claims made by dealers for compensation
22 for delivery, preparation and warranty work shall be
23 paid within thirty (30) days after approval and shall
24 be approved or disapproved within thirty (30) days

1 after receipt. When any claim is disapproved, the
2 dealer shall be notified in writing of the grounds for
3 disapproval. The dealer's delivery, preparation and
4 warranty obligations as filed with the Commission
5 shall constitute the dealer's sole responsibility for
6 product liability as between the dealer and
7 manufacturer. A factory may reasonably and
8 periodically audit a new motor vehicle dealer to
9 determine the validity of paid claims for dealer
10 compensation or any charge-backs for warranty parts or
11 service compensation. Except in cases of suspected
12 fraud, audits of warranty payments shall only be for
13 the one-year period immediately following the date of
14 the payment. A manufacturer shall reserve the right
15 to reasonable, periodic audits to determine the
16 validity of paid claims for dealer compensation or any
17 charge-backs for consumer or dealer incentives.
18 Except in cases of suspected fraud, audits of
19 incentive payments shall only be for a one-year period
20 immediately following the date of the payment. A
21 factory shall not deny a claim or charge a new motor
22 vehicle dealer back subsequent to the payment of the
23 claim unless the factory can show that the claim was
24 false or fraudulent or that the new motor vehicle

1 dealer failed to reasonably substantiate the claim by
2 the written reasonable procedures of the factory. The
3 factory shall provide written notice to a dealer of a
4 proposed charge-back that is the result of an audit
5 along with the specific audit results and proposed
6 charge-back amount. A dealer that receives notice of
7 a proposed charge-back pursuant to a factory's audit
8 has the right to file a protest with the Commission
9 within thirty (30) days after receipt of the notice of
10 the charge-back or audit results, whichever is later.
11 The factory is prohibited from implementing the
12 charge-back or debiting the dealer's account until
13 either the time frame for filing a protest has passed
14 or a final adjudication is rendered by the Commission,
15 whichever is later, unless the dealer has agreed to
16 the charge-back or charge-backs,

- 17 c. unreasonably fails or refuses to offer to its same
18 line-make franchised dealers all models manufactured
19 for that line-make, or unreasonably requires a dealer
20 to pay any extra fee, purchase unreasonable
21 advertising displays or other materials, or remodel,
22 renovate, or recondition the dealer's existing
23 facilities as a prerequisite to receiving a model or
24 series of vehicles. The failure to deliver any such

1 new motor vehicle shall not be considered a violation
2 of the section if the failure is not arbitrary or is
3 due to lack of manufacturing capacity or to a strike
4 or labor difficulty, a shortage of materials, a
5 freight embargo or other cause over which the
6 manufacturer has no control. However, this
7 subparagraph shall not apply to recreational vehicles
8 or limited production model vehicles,

9 d. except as necessary to comply with a health or safety
10 law, or to comply with a technology requirement which
11 is necessary to sell or service a motor vehicle that
12 the franchised motor vehicle dealer is authorized or
13 licensed by the franchisor to sell or service,
14 requires a new motor vehicle dealer to construct a new
15 facility or substantially renovate the new motor
16 vehicle dealer's existing facility unless the facility
17 construction or renovation is justified by the
18 economic conditions existing at the time, as well as
19 the reasonably foreseeable projections, in the
20 automotive industry. However, this subparagraph shall
21 not apply if the factory provides money, credit,
22 allowance, reimbursement, or additional vehicle
23 allocation to a dealer to compensate the dealer for
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1 the cost of, or a portion of the cost of, the facility
2 construction or renovation,

3 e. requires a new motor vehicle dealer to establish an
4 exclusive facility, unless supported by reasonable
5 business, market and economic considerations;
6 provided, that this provision shall not restrict the
7 terms of any agreement for such exclusive facility
8 voluntarily entered into and supported by valuable
9 consideration separate from the new motor vehicle
10 dealer's right to sell and service motor vehicles for
11 the franchisor,

12 f. requires a new motor vehicle dealer to enter into a
13 site-control agreement covering any or all of the new
14 motor vehicle dealer's facilities or premises;
15 provided, that this provision shall not restrict the
16 terms of any site-control agreement voluntarily
17 entered into and supported by valuable consideration
18 separate from the new motor vehicle dealer's right to
19 sell and service motor vehicles for the franchisor.

20 Notwithstanding the foregoing or the terms of any
21 site-control agreement, a site-control agreement
22 automatically extinguishes if all of the factory's
23 franchises that operated from the location that are
24 the subject of the site-control agreement are

1 terminated by the factory as part of the
2 discontinuance of a product line, or

3 g. requires a new motor vehicle dealer to purchase goods
4 or services for the construction, renovation, or
5 improvement of the dealer's facility from a vendor
6 chosen by the factory if goods or services available
7 from other sources are of substantially similar
8 quality and design and comply with all applicable
9 laws; provided, however, that such goods are not
10 subject to the factory's intellectual property or
11 trademark rights and the new motor vehicle dealer has
12 received the factory's approval, which approval may
13 not be unreasonably withheld. Nothing in this
14 subparagraph may be construed to allow a new motor
15 vehicle dealer to impair or eliminate a factory's
16 intellectual property, trademark rights or trade dress
17 usage guidelines. Nothing in this section prohibits
18 the enforcement of a voluntary agreement between the
19 factory and the new motor vehicle dealer where
20 separate and valuable consideration has been offered
21 and accepted;

22 10. Being a factory that establishes a system of motor vehicle
23 allocation or distribution which is unfair, inequitable or
24 unreasonably discriminatory. Upon the request of any dealer

1 franchised by it, a factory shall disclose in writing to the dealer
2 the basis upon which new motor vehicles are allocated, scheduled and
3 delivered among the dealers of the same line-make for that factory;

4 11. Being a factory that sells directly or indirectly new motor
5 vehicles to any retail consumer in the state except through a new
6 motor vehicle dealer holding a franchise for the line-make that
7 includes the new motor vehicle. This paragraph does not apply to
8 factory sales of new motor vehicles to its employees, family members
9 of employees, retirees and family members of retirees, not-for-
10 profit organizations or the federal, state or local governments.
11 The provisions of this paragraph shall not preclude a factory from
12 providing information to a consumer for the purpose of marketing or
13 facilitating a sale of a new motor vehicle or from establishing a
14 program to sell or offer to sell new motor vehicles through
15 participating dealers;

16 12. a. Being a factory which directly or indirectly:
17 (1) owns any ownership interest or has any financial
18 interest in a new motor vehicle dealer or any
19 person who sells products or services to the
20 public,
21 (2) operates or controls a new motor vehicle dealer,
22 or
23 (3) acts in the capacity of a new motor vehicle
24 dealer.

1 b. (1) This paragraph does not prohibit a factory from
2 owning or controlling a new motor vehicle dealer
3 while in a bona fide relationship with a dealer
4 development candidate who has made a substantial
5 initial investment in the franchise and whose
6 initial investment is subject to potential loss.
7 The dealer development candidate can reasonably
8 expect to acquire full ownership of a new motor
9 vehicle dealer within a reasonable period of time
10 not to exceed ten (10) years and on reasonable
11 terms and conditions. The ten-year acquisition
12 period may be expanded for good cause shown.

13 (2) This paragraph does not prohibit a factory from
14 owning, operating, controlling or acting in the
15 capacity of a motor vehicle dealer for a period
16 not to exceed twelve (12) months during the
17 transition from one dealer to another dealer if
18 the dealership is for sale at a reasonable price
19 and on reasonable terms and conditions to an
20 independent qualified buyer. On showing by a
21 factory of good cause, the Oklahoma Motor Vehicle
22 Commission may extend the time limit set forth
23 above; extensions may be granted for periods not
24 to exceed twelve (12) months.

1 (3) This paragraph does not prohibit a factory from
2 owning, operating or controlling or acting in the
3 capacity of a motor vehicle dealer which was in
4 operation prior to January 1, 2000.

5 (4) This paragraph does not prohibit a factory from
6 owning, directly or indirectly, a minority
7 interest in an entity that owns, operates or
8 controls motor vehicle dealerships of the same
9 line-make franchised by the manufacturer,
10 provided that each of the following conditions
11 are met:

12 (a) all of the motor vehicle dealerships selling
13 the motor vehicles of that manufacturer in
14 this state trade exclusively in the line-
15 make of that manufacturer,

16 (b) all of the franchise agreements of the
17 manufacturer confer rights on the dealer of
18 the line-make to develop and operate, within
19 a defined geographic territory or area, as
20 many dealership facilities as the dealer and
21 manufacturer shall agree are appropriate,

22 (c) at the time the manufacturer first acquires
23 an ownership interest or assumes operation,
24 the distance between any dealership thus

1 owned or operated and the nearest
2 unaffiliated motor vehicle dealership
3 trading in the same line-make is not less
4 than seventy (70) miles,

5 (d) during any period in which the manufacturer
6 has such an ownership interest, the
7 manufacturer has no more than three
8 franchise agreements with new motor vehicle
9 dealers licensed by the Oklahoma Motor
10 Vehicle Commission to do business within the
11 state, and

12 (e) prior to January 1, 2000, the factory shall
13 have furnished or made available to
14 prospective motor vehicle dealers an
15 offering-circular in accordance with the
16 Trade Regulation Rule on Franchising of the
17 Federal Trade Commission, and any guidelines
18 and exemptions issued thereunder, which
19 disclose the possibility that the factory
20 may from time to time seek to own or
21 acquire, directly or indirectly, ownership
22 interests in retail dealerships;

23 13. Being a factory which directly or indirectly makes
24 available for public disclosure any proprietary information provided

1 to the factory by a new motor vehicle dealer, other than in
2 composite form to dealers in the same line-make or in response to a
3 subpoena or order of the Commission or a court. Proprietary
4 information includes, but is not limited to, information ~~based on:~~

- 5 a. ~~any information~~ derived from monthly financial
6 statements provided to the factory, and
- 7 b. ~~any information~~ regarding any aspect of the
8 profitability of a particular new motor vehicle
9 dealer;

10 14. Being a factory which does not provide or direct leads in a
11 fair, equitable and timely manner. Nothing in this paragraph shall
12 be construed to require a factory to disregard the preference of a
13 consumer in providing or directing a lead;

14 15. Being a factory which used the customer list of a new motor
15 vehicle dealer for the purpose of unfairly competing with dealers;

16 16. Being a factory which prohibits a new motor vehicle dealer
17 from relocating after a written request by such new motor vehicle
18 dealer if:

- 19 a. the facility and the proposed new location satisfies
20 or meets the written reasonable guidelines of the
21 factory. Reasonable guidelines do not include site
22 control unless agreed to as set forth in subparagraphs
23 e and f of paragraph 9 of this subsection,

24

1 b. the proposed new location is within the area of
2 responsibility of the new motor vehicle dealer
3 pursuant to Section 578.1 of this title, and

4 c. the factory has sixty (60) days from receipt of the
5 new motor vehicle dealer's relocation request to
6 approve or deny the request. The failure to approve
7 or deny the request within the sixty-day time frame
8 shall constitute approval of the request;

9 17. Being a factory which prohibits a new motor vehicle dealer
10 from adding additional line-makes to its existing facility, if,
11 after adding the additional line-makes, the facility satisfies the
12 written reasonable capitalization standards and facility guidelines
13 of each factory. Reasonable facility guidelines do not include a
14 requirement to maintain site control unless agreed to by the dealer
15 as set forth in subparagraphs e and f of paragraph 9 of this
16 subsection;

17 18. Being a factory that increases prices of new motor vehicles
18 which the new motor vehicle dealer had ordered for retail consumers
19 and notified the factory prior to the dealer's receipt of the
20 written official price increase notification. A sales contract
21 signed by a retail consumer accompanied with proof of order
22 submission to the factory shall constitute evidence of each such
23 order, provided that the vehicle is in fact delivered to the
24 customer. Price differences applicable to new models or series

1 motor vehicles at the time of the introduction of new models or
2 series shall not be considered a price increase for purposes of this
3 paragraph. Price changes caused by any of the following shall not
4 be subject to the provisions of this paragraph:

- 5 a. the addition to a motor vehicle of required or
6 optional equipment pursuant to state or federal law,
- 7 b. revaluation of the United States dollar in the case of
8 foreign-made vehicles or components, or
- 9 c. an increase in transportation charges due to increased
10 rates imposed by common or contract carriers;

11 19. Being a factory that requires a new motor vehicle dealer to
12 participate monetarily in an advertising campaign or contest, or
13 purchase any promotional materials, showroom or other display
14 decoration or materials at the expense of the new motor vehicle
15 dealer without consent of the dealer, which consent shall not be
16 unreasonably withheld;

17 20. Being a factory that denies any new motor vehicle dealer
18 the right of free association with any other new motor vehicle
19 dealer for any lawful purpose, unless otherwise permitted by this
20 chapter; or

21 21. Being a factory that requires a new motor vehicle dealer to
22 sell, offer to sell or sell exclusively an extended service
23 contract, extended maintenance plan or similar product, such as gap
24

1 products offered, endorsed or sponsored by the factory by the
2 following means:

- 3 a. by an act or statement from the factory that will in
4 any manner adversely impact the dealer,
- 5 b. by measuring the dealer's performance under the
6 franchise based on the sale of extended service
7 contracts, extended maintenance plans or similar
8 products offered, endorsed or sponsored by the
9 manufacturer or distributor.

10 B. Notwithstanding the terms of any franchise agreement, in the
11 event of a proposed sale or transfer of a dealership, the
12 manufacturer or distributor shall be permitted to exercise a right
13 of first refusal to acquire the assets or ownership interest of the
14 dealer of the new vehicle dealership, if such sale or transfer is
15 conditioned upon the manufacturer or dealer entering into a dealer
16 agreement with the proposed new owner or transferee, only if all the
17 following requirements are met:

18 1. To exercise its right of first refusal, the factory must
19 notify the dealer in writing within sixty (60) days of receipt of
20 the completed proposal for the proposed sale transfer;

21 2. The exercise of the right of first refusal will result in
22 the dealer and the owner of the dealership receiving the same or
23 greater consideration as they have contracted to receive in
24 connection with the proposed change of ownership or transfer;

1 3. The proposed sale or transfer of the assets of the
2 dealership does not involve the transfer or sale to a member or
3 members of the family of one or more dealer owners, or to a
4 qualified manager or a partnership or corporation controlled by such
5 persons; and

6 4. The factory agrees to pay the reasonable expenses, including
7 attorney fees which do not exceed the usual, customary and
8 reasonable fees charged for similar work done for other clients
9 incurred by the proposed new owner and transferee prior to the
10 exercise by the factory of its right of first refusal in negotiating
11 and implementing the contract for the proposed sale or transfer of
12 the dealership or dealership assets. Notwithstanding the foregoing,
13 no payment of expenses and attorney fees shall be required if the
14 proposed new dealer or transferee has not submitted or caused to be
15 submitted an accounting of those expenses within thirty (30) days of
16 receipt of the written request of the factory for such an
17 accounting. The accounting may be requested by a factory before
18 exercising its right of first refusal.

19 C. Nothing in this section shall prohibit, limit, restrict or
20 impose conditions on:

21 1. Business activities, including without limitation the
22 dealings with motor vehicle manufacturers and the representatives
23 and affiliates of motor vehicle manufacturers, of any person that is
24 primarily engaged in the business of short-term, not to exceed

1 twelve (12) months, rental of motor vehicles and industrial and
2 construction equipment and activities incidental to that business,
3 provided that:

4 a. any motor vehicle sold by that person is limited to
5 used motor vehicles that have been previously used
6 exclusively and regularly by that person in the
7 conduct of business and used motor vehicles traded in
8 on motor vehicles sold by that person,

9 b. warranty repairs performed by that person on motor
10 vehicles are limited to those motor vehicles that it
11 owns, previously owned or takes in trade, and

12 c. motor vehicle financing provided by that person to
13 retail consumers for motor vehicles is limited to used
14 vehicles sold by that person in the conduct of
15 business; or

16 2. The direct or indirect ownership, affiliation or control of
17 a person described in paragraph 1 of this subsection.

18 SECTION 2. AMENDATORY 47 O.S. 2011, Section 583, as last
19 amended by Section 24, Chapter 161, O.S.L. 2020 (47 O.S. Supp. 2020,
20 Section 583), is amended to read as follows:

21 Section 583. A. 1. It shall be unlawful and constitute a
22 misdemeanor for any person to engage in business as, or serve in the
23 capacity of, or act as a used motor vehicle dealer, wholesale used
24 motor vehicle dealer, manufactured home dealer, restricted

1 manufactured home park dealer, manufactured home installer, or
2 manufactured home manufacturer selling directly to a licensed
3 manufactured home dealer in this state without first obtaining a
4 license or following other requirements therefor as provided in this
5 section.

6 2. a. Any person engaging, acting, or serving in the
7 capacity of a used motor vehicle dealer, a
8 manufactured home dealer, restricted manufactured home
9 park dealer, a manufactured home installer, or a
10 manufactured home manufacturer, or having more than
11 one place where any such business, or combination of
12 businesses, is carried on or conducted shall be
13 required to obtain and hold a current license for each
14 such business, in which engaged.

15 b. If after a hearing in accordance with the provisions
16 of Section 585 of this title, the Oklahoma Used Motor
17 Vehicle and Parts Commission shall find any person
18 installing a mobile or manufactured home to be in
19 violation of any of the provisions of this act, such
20 person may be subject to an administrative fine of not
21 more than Five Hundred Dollars (\$500.00) for each
22 violation. Each day a person is in violation of this
23 act may constitute a separate violation. All
24 administrative fines collected pursuant to the

1 provisions of this subparagraph shall be deposited in
2 the fund established in Section 582 of this title.
3 Administrative fines imposed pursuant to this
4 subparagraph may be enforceable in the district courts
5 of this state.

6 3. Any person except persons penalized by administrative fine
7 violating the provisions of this section shall, upon conviction, be
8 punished by a fine not to exceed Five Hundred Dollars (\$500.00). A
9 second or subsequent conviction shall be punished by a fine not to
10 exceed One Thousand Dollars (\$1,000.00); provided that each day such
11 unlicensed person violates this section shall constitute a separate
12 offense, and any vehicle involved in a violation of this subsection
13 shall be considered a separate offense.

14 B. 1. Applications for licenses required to be obtained under
15 the provisions of the Oklahoma Used Motor Vehicle and Parts
16 Commission shall be verified by the oath or affirmation of the
17 applicant and shall be on forms prescribed by the Commission and
18 furnished to the applicants, and shall contain such information as
19 the Commission deems necessary to enable it to fully determine the
20 qualifications and eligibility of the several applicants to receive
21 the license or licenses applied for. The Commission shall require
22 in the application, or otherwise, information relating to:

- 23 a. the applicant's financial standing,
- 24 b. the applicant's business integrity,

- 1 c. whether the applicant has an established place of
2 business and is engaged in the pursuit, avocation, or
3 business for which a license, or licenses, is applied
4 for,
- 5 d. whether the applicant is able to properly conduct the
6 business for which a license, or licenses, is applied
7 for, and
- 8 e. such other pertinent information consistent with the
9 safeguarding of the public interest and the public
10 welfare.

11 2. All applications for license or licenses shall be
12 accompanied by the appropriate fee or fees in accordance with the
13 schedule hereinafter provided. In the event any application is
14 denied and the license applied for is not issued, the entire license
15 fee shall be returned to the applicant.

16 3. All bonds and licenses issued under the provisions of this
17 act shall expire on December 31, following the date of issue and
18 shall be nontransferable. All applications for renewal of licenses
19 shall be submitted by November 1 of each year of expiration, and
20 licenses for completed renewals received by November 1 shall be
21 issued by January 10. If applications have not been made for
22 renewal of licenses, such licenses shall expire on December 31 and
23 it shall be illegal for any person to represent himself or herself
24 and act as a dealer thereafter. Tag agents shall be notified not to

1 accept dealers' titles until such time as licenses have been issued.
2 Beginning January 1, 2016, all licenses shall be issued for a period
3 of two (2) years and the appropriate fees shall be assessed. The
4 Commission shall adopt rules necessary to implement the two-year
5 licensing provisions.

6 4. A certificate of registration shall permit the registered
7 person to engage in the activities of a used motor vehicle
8 salesperson. A salesperson shall be deemed to be temporarily
9 approved and allowed to sell vehicles when applications and fees are
10 on file with the Commission.

11 C. The schedule of license and inspection fees to be charged
12 and received by the Commission for the licenses and inspections
13 issued hereunder shall be as follows:

14 1. For each used motor vehicle dealer's license and each
15 wholesale used motor vehicle dealer's license, Six Hundred Dollars
16 (\$600.00). If a used motor vehicle dealer or a wholesale used motor
17 vehicle dealer has once been licensed by the Commission in the
18 classification for which he or she applies for a renewal of the
19 license, the fee for each subsequent renewal shall be Three Hundred
20 Dollars (\$300.00); provided, if an applicant holds a license to
21 conduct business as an automotive dismantler and parts recycler
22 issued pursuant to Section 591.1 et seq. of this title, the initial
23 fee shall be Two Hundred Dollars (\$200.00) and the renewal fee shall
24 be Two Hundred Dollars (\$200.00). If an applicant is applying

1 simultaneously for a license under this paragraph and a license
2 under paragraph 1 of Section 591.5 of this title, the initial
3 application fee shall be Four Hundred Dollars (\$400.00). For the
4 reinstatement of a used motor vehicle dealer's license after
5 revocation for cancellation or expiration of insurance pursuant to
6 subsection F of this section, the fee shall be Two Hundred Dollars
7 (\$200.00);

8 2. For a used motor vehicle dealer's license, for each place of
9 business in addition to the principal place of business, Two Hundred
10 Dollars (\$200.00);

11 3. For each holder who possesses a valid new motor vehicle
12 dealer's license from the Oklahoma Motor Vehicle Commission, Two
13 Hundred Dollars (\$200.00) shall be the initial fee for a used motor
14 vehicle license and the fee for each subsequent renewal shall be Two
15 Hundred Dollars (\$200.00);

16 4. a. For each manufactured home dealer's license or a
17 restricted manufactured home park dealer's license,
18 Six Hundred Dollars (\$600.00), and for each place of
19 business in addition to the principal place of
20 business, Four Hundred Dollars (\$400.00), and

21 b. For each renewal of a manufactured home dealer's
22 license or a restricted manufactured home park
23 dealer's license, and renewal for each place of
24

1 business in addition to the principal place of
2 business, Three Hundred Dollars (\$300.00);

3 5. a. For each manufactured home installer's license, Four
4 Hundred Dollars (\$400.00), and

5 b. For each renewal of a manufactured home installer's
6 license, Four Hundred Dollars (\$400.00);

7 6. a. For each manufactured home manufacturer selling
8 directly to a licensed manufactured home dealer in
9 this state, One Thousand Five Hundred Dollars
10 (\$1,500.00), and

11 b. For each renewal of a manufactured home manufacturer's
12 license, One Thousand Five Hundred Dollars
13 (\$1,500.00);

14 7. Any manufactured home manufacturer who sells a new
15 manufactured home to be shipped to or sited in the State of Oklahoma
16 shall pay an installation inspection fee of Seventy-five Dollars
17 (\$75.00) for each new single-wide manufactured home and One Hundred
18 Twenty-five Dollars (\$125.00) for each new multi-floor manufactured
19 home; and

20 8. A used manufactured home inspection fee of Seventy-five
21 Dollars (\$75.00) shall be paid by the installer at or before the
22 time of installation of any used manufactured home sited and
23 installed in the State of Oklahoma.

24

1 D. 1. The license issued to each used motor vehicle dealer,
2 each wholesale used motor vehicle dealer, each restricted
3 manufactured home park dealer and each manufactured home dealer
4 shall specify the location of the place of business. If the
5 business location is changed, the Oklahoma Used Motor Vehicle and
6 Parts Commission shall be notified immediately of the change and the
7 Commission may endorse the change of location on the license. The
8 fee for a change of location shall be One Hundred Dollars (\$100.00),
9 and the fee for a change of name, Twenty-five Dollars (\$25.00). The
10 license of each licensee shall be posted in a conspicuous place in
11 the place or places of business of the licensee.

12 2. The license issued to each manufactured home installer, and
13 each manufactured home manufacturer shall specify the location of
14 the place of business. If the business location is changed, the
15 Oklahoma Used Motor Vehicle and Parts Commission shall be notified
16 immediately of the change and the Commission may endorse the change
17 of location on the license without charge. The license of each
18 licensee shall be posted in a conspicuous place in the place or
19 places of business of the licensee.

20 3. Every manufactured home installer shall have the license
21 available for inspection at the primary place of business of the
22 licensee. This license shall be valid for the licensee and all of
23 the employees of the licensee. Any person who is not an employee of
24 the licensee must obtain a separate manufactured home installer

1 license regardless of whether such person is acting in the capacity
2 of a contractor or subcontractor.

3 E. 1. a. Each applicant for a used motor vehicle dealer's
4 license shall procure and file with the Commission a
5 good and sufficient bond in the amount of Twenty-five
6 Thousand Dollars (\$25,000.00). Each new applicant for
7 a used motor vehicle dealer's license for the purpose
8 of conducting a used motor vehicle auction shall
9 procure and file with the Commission a good and
10 sufficient bond in the amount of Fifty Thousand
11 Dollars (\$50,000.00). An applicant who intends to
12 conduct a used motor vehicle auction who provides
13 proof that the applicant has check and title insurance
14 in an amount not less than Fifty Thousand Dollars
15 (\$50,000.00) shall only be required to have a bond in
16 the amount of Twenty-five Thousand Dollars
17 (\$25,000.00).

18 b. Each new applicant for a used motor vehicle dealer
19 license for the purpose of conducting a used motor
20 vehicle business which will consist primarily of non-
21 auction consignment sales which are projected to equal
22 Five Hundred Thousand Dollars (\$500,000.00) or more in
23 gross annual sales shall procure and file with the
24 Commission a good and sufficient bond in the amount of

1 Fifty Thousand Dollars (\$50,000.00). The Commission
2 shall prescribe by rule the method of operation of the
3 non-auction consignment dealer in order to properly
4 protect the interests of all parties to the
5 transaction and to provide sanctions against dealers
6 who fail to comply with the rules.

7 c. Each applicant for a wholesale used motor vehicle
8 dealer's license shall procure and file with the
9 Commission a good and sufficient bond in the amount of
10 Twenty-five Thousand Dollars (\$25,000.00).

11 d. Any used motor vehicle dealer who, for the purpose of
12 being a rebuilder, applies for a rebuilder
13 certificate, as provided in Section 591.5 of this
14 title, whether as a new application or renewal, shall
15 procure and file with the Commission a good and
16 sufficient bond in the amount of Fifteen Thousand
17 Dollars (\$15,000.00), in addition to any other bonds
18 required.

19 e. Each applicant for a manufactured home dealer's
20 license or a restricted manufactured home park
21 dealer's license shall procure and file with the
22 Commission a good and sufficient bond in the amount of
23 Thirty Thousand Dollars (\$30,000.00).
24

1 f. Each manufactured home manufacturing facility selling
2 directly to a licensed manufactured home dealer in
3 this state shall procure and file with the Commission
4 a good and sufficient bond in the amount of Thirty
5 Thousand Dollars (\$30,000.00). In addition to all
6 other conditions and requirements set forth herein,
7 the bond shall require the availability of prompt and
8 full warranty service by the manufacturer to comply
9 with all warranties expressed or implied in connection
10 with each manufactured home which is manufactured for
11 resale in this state. A manufacturer may not sell,
12 exchange, or lease-purchase a manufactured home to a
13 person in this state who is not a licensed
14 manufactured home dealer.

15 g. The bond shall be approved as to form by the Attorney
16 General and conditioned that the applicant shall not
17 practice fraud, make any fraudulent representation, or
18 violate any of the provisions of this act in the
19 conduct of the business for which the applicant is
20 licensed. One of the purposes of the bond is to
21 provide reimbursement for any loss or damage suffered
22 by any person by reason of issuance of a certificate
23 of title by a used motor vehicle dealer, a wholesale
24

1 used motor vehicle dealer, a restricted manufactured
2 home park dealer or a manufactured home dealer.

3 2. The bonds as required by this section shall be maintained
4 throughout the period of licensure. Should the bond be canceled for
5 any reason, the license shall be revoked as of the date of
6 cancellation unless a new bond is furnished prior to such date.

7 F. Any used motor vehicle dealer or wholesale used motor
8 vehicle dealer is required to furnish and keep in force a minimum of
9 Twenty-five Thousand Dollars (\$25,000.00) of single liability
10 insurance coverage on all vehicles offered for sale or used in any
11 other capacity in demonstrating or utilizing the streets and
12 roadways in accordance with the financial responsibility laws of
13 this state.

14 G. Any manufactured home dealer or restricted manufactured home
15 park dealer is required to furnish and keep in force a minimum of
16 One Hundred Thousand Dollars (\$100,000.00) of garage liability or
17 general liability with products and completed operations insurance
18 coverage.

19 H. Any manufactured home installer is required to furnish and
20 keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00)
21 of general liability with products and completed operations
22 insurance coverage.

23 SECTION 3. AMENDATORY Section 8, Chapter 79, O.S.L. 2019
24 (47 O.S. Supp. 2020, Section 583.1), is amended to read as follows:

1 Section 583.1 A. It shall be punishable by an administrative
2 fine not to exceed Five Hundred Dollars (\$500.00) for any person,
3 firm, association, corporation or trust to engage in business as, or
4 serve in the capacity of, a used motor vehicle salesperson in this
5 state without first obtaining a certificate of registration with the
6 Oklahoma Used Motor Vehicle and Parts Commission. However, a person
7 may sell used motor vehicles without obtaining a separate used motor
8 vehicle salesperson's certificate of registration if the person has
9 a certificate of registration from the Oklahoma Motor Vehicle
10 Commission to sell new or unused motor vehicles at a new motor
11 vehicle dealer's licensed franchise location which also sells used
12 vehicles; provided, such a person shall only be authorized to sell
13 used motor vehicles for the dealer at the new motor vehicle dealer's
14 licensed franchise location and to represent the new motor vehicle
15 dealer at used motor vehicle auctions. The cost of the registration
16 for each salesperson shall be Fifty Dollars (\$50.00) to be renewed
17 biennially and, for a transfer, Twenty-five Dollars (\$25.00). ~~The~~
18 ~~cost of registration for each new salesperson shall be set at~~
19 ~~Twenty five Dollars (\$25.00) to be renewed annually.~~ The cost of
20 registration is to be borne by the employing entity of the ~~new~~
21 salesperson. The Oklahoma Used Motor Vehicle and Parts Commission
22 shall promulgate rules and procedures necessary for the
23 implementation and creation of ~~the~~ a registry of salespersons and
24 the issuance of certificates of registration.

1 B. It shall be punishable by an administrative fine not to
2 exceed Five Hundred Dollars (\$500.00) for any person, firm,
3 association, corporation or trust to engage in business as, or serve
4 in the capacity of, a manufactured home salesperson in this state
5 without first obtaining a certificate of registration with the
6 Oklahoma Used Motor Vehicle and Parts Commission. ~~The cost of~~
7 ~~registration for each new salesperson shall be set at Twenty-five~~
8 ~~Dollars (\$25.00) to be renewed annually.~~ The cost of the
9 registration for each salesperson shall be Fifty Dollars (\$50.00) to
10 be renewed biennially and, for a transfer, Twenty-five Dollars
11 (\$25.00). The cost of registration is to be borne by the employing
12 entity of the ~~new~~ salesperson. The Commission shall promulgate
13 rules and procedures necessary for the implementation and creation
14 of ~~the~~ a registry of salespersons and the issuance of certificates
15 of registration.

16 SECTION 4. AMENDATORY 47 O.S. 2011, Section 584, as last
17 amended by Section 6, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020,
18 Section 584), is amended to read as follows:

19 Section 584. A. The Oklahoma Used Motor Vehicle and Parts
20 Commission may deny an application for a license, impose a fine not
21 to exceed One Thousand Dollars (\$1,000.00) per occurrence and/or
22 revoke or suspend a license after it has been granted, when any
23 provision of Sections 581 through 588 of this title is violated or
24 for any of the following reasons:

1 1. On satisfactory proof of unfitness of the applicant or the
2 licensee, as the case may be, under the standards established by
3 Sections 581 through 588 of this title;

4 2. For fraud practices or any material misstatement made by an
5 applicant in any application for license under the provisions of
6 Sections 581 through 588 of this title;

7 3. For any willful failure to comply with any provision of
8 Section 581 et seq. of this title or with any rule promulgated by
9 the Commission under authority vested in it by Sections 581 through
10 588 of this title;

11 4. Change of condition after license is granted resulting in
12 failure to maintain the qualifications for license;

13 5. Continued or flagrant violation of any of the rules of the
14 Commission;

15 6. Being a used motor vehicle dealer, a used motor vehicle
16 salesperson, a wholesale used motor vehicle dealer, or a
17 manufactured home dealer, a restricted manufactured home park
18 dealer, a manufactured home installer, a manufactured home
19 salesperson or a manufactured home manufacturer who:

20 a. resorts to or uses any false or misleading advertising
21 in connection with business as a used motor vehicle
22 dealer, wholesale used motor vehicle dealer or a
23 restricted manufactured home park dealer or
24 manufactured home dealer, installer or manufacturer,

- 1 b. has committed any unlawful act which resulted in the
2 revocation of any similar license in another state,
3 c. has been convicted of a crime involving moral
4 turpitude,
5 d. has committed a fraudulent act in selling, purchasing
6 or otherwise dealing in motor vehicles or manufactured
7 homes or has misrepresented the terms and conditions
8 of a sale, purchase or contract for sale or purchase
9 of a motor vehicle or manufactured home or any
10 interest therein including an option to purchase such
11 motor vehicles or manufactured homes,
12 e. has engaged in business under a past or present
13 license issued pursuant to Sections 581 through 588 of
14 this title, in such a manner as to cause injury to the
15 public or to those with whom the licensee is dealing,
16 f. has failed to meet or maintain the conditions and
17 requirements necessary to qualify for the issuance of
18 a license,
19 g. has failed or refused to furnish and keep in force any
20 bond required under Sections 581 through 588 of this
21 title,
22 h. has installed or attempted to install a manufactured
23 home in an unworkmanlike manner, or
24

1 i. employs ~~unlicensed persons~~ a person in connection with
2 the sale of manufactured homes without first obtaining
3 a certificate of registration for the person;

4 7. Being a used motor vehicle dealer who:

5 a. does not have an established place of business,

6 b. employs ~~unlicensed persons~~ a person in connection with
7 the sale of used vehicles without first obtaining a
8 certificate of registration for the person,

9 c. fails or refuses to furnish or keep in force single
10 limit liability insurance on any vehicle offered for
11 sale and otherwise required under the financial
12 responsibility laws of this state, or

13 d. is not operating from the address shown on the license
14 if this change has not been reported to the
15 Commission; or

16 8. Being a manufactured home dealer or a restricted
17 manufactured home park dealer who:

18 a. does not have an established place of business,

19 b. fails or refuses to furnish or keep in force garage
20 liability and completed operations insurance, or

21 c. is not operating from the address shown on the license
22 if this change has not been reported to the
23 Commission.

24

1 B. 1. The Commission shall deny an application for a license,
2 or revoke or suspend a license after it has been granted, if a
3 manufactured home dealer does not meet the following guidelines and
4 restrictions:

- 5 a. a display area for manufactured homes which is easily
6 accessible, with sufficient parking for the public,
- 7 b. an office for conducting business where the books,
8 records, and files are kept, with access to a restroom
9 for the public,
- 10 c. a place of business which meets all zoning, occupancy
11 and other requirements of the appropriate local
12 government and regular occupancy by a person, firm, or
13 corporation engaged in the business of selling
14 manufactured homes, and
- 15 d. a place of business which is separate and apart from
16 any other dealer's location.

17 2. The Commission shall deny an application for a restricted
18 manufactured home park dealer license, or revoke or suspend a
19 license after it has been granted, if a manufactured home park
20 dealer does not satisfy the following guidelines and restrictions:

- 21 a. only mobile or manufactured homes that are "ready for
22 occupancy" are sold or offered for sale,

1 b. maintains an office for conducting business where the
2 books, records, and files are kept, with access to a
3 restroom for the public,

4 c. maintains a place of business which meets all zoning,
5 occupancy and other requirements of the appropriate
6 local government and regular occupancy by a person,
7 firm or corporation engaged in the business of selling
8 manufactured homes inside a park, and

9 d. maintains a place of business which is separate and
10 apart from any other dealer's location.

11 C. The Commission shall deny an application for a license, or
12 revoke or suspend a license after it has been granted, if a
13 manufactured home installer:

14 1. Installs or attempts to install a manufactured home in a
15 manner that is not in compliance with installation standards as set
16 by the Commission pursuant to rule; or

17 2. Violates or fails to comply with any applicable rule as
18 promulgated by the Commission concerning manufactured home
19 installers.

20 D. The Commission shall deny an application for a license, or
21 revoke or suspend a license after it has been granted, if a
22 manufactured home manufacturer violates or fails to comply with any
23 applicable rule as promulgated by the Commission concerning
24 manufactured home manufacturers.

1 E. The Commission shall deny an application for a license by a
2 motor vehicle manufacturer or factory if the application is for the
3 purpose of selling used motor vehicles to any retail consumer in the
4 state, other than through its retail franchised dealers, or acting
5 as a broker between a seller and a retail buyer. This subsection
6 does not prohibit a manufacturer from selling used motor vehicles
7 where the retail customer is a nonprofit organization or a federal,
8 state, or local government or agency. This subsection does not
9 prohibit a manufacturer from providing information to a consumer for
10 the purpose of marketing or facilitating the sale of used motor
11 vehicles or from establishing a program to sell or offer to sell
12 used motor vehicles through the manufacturer's retail franchised
13 dealers as provided for in Sections 561 through 580.2 of this title.
14 This subsection shall not prevent a factory from obtaining a
15 wholesale used motor vehicle dealer's license or the factory's
16 financing subsidiary from obtaining a wholesale used motor vehicle
17 dealer's license.

18 F. If the Commission denies issuance of a license the
19 Commission shall provide the grounds for the action to the applicant
20 in writing and allow the applicant sixty (60) days to resolve any
21 issues that are the grounds for the action.

22 G. Each of the aforementioned grounds for suspension,
23 revocation, or denial of issuance or renewal of license shall also
24 constitute a violation of Sections 581 through 588 of this title,

1 unless the person involved has been tried and acquitted of the
2 offense constituting such grounds.

3 The suspension, revocation or refusal to issue or renew a
4 license or the imposition of any other penalty by the Commission
5 shall be in addition to any penalty which might be imposed upon any
6 licensee upon a conviction at law for any violation of Sections 581
7 through 588 of this title.

8 SECTION 5. This act shall become effective November 1, 2021.

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10 58-1-5615 JBH 12/21/20

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